

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CEDRIC WARD

PLAINTIFF

VS.

CIVIL ACTION NO. 1:00CV132-D-A

WEAVEXX CORPORATION

DEFENDANT

OPINION

This matter is before the court on the Defendant, Weavexx Corporation's motion for summary judgment. Upon due consideration, the court finds that the motion shall be granted in part and denied in part.

Factual Background¹

The Plaintiff, Cedric Ward (Ward), an African-American employee of the Defendant, Weavexx Corporation (Weavexx), was denied a promotion to the position of group leader, and a white person with less seniority, less education, and less job qualifications, was placed in that position. Ward subsequently filed this cause claiming violations under 42 USC §1981, Title VII, and 42 USC §2000. Specifically, Ward claims that Weavexx discriminated against him because of his race when they did not promote him to group leader. Additionally, Ward claims that Weavexx retaliated against him by giving him unjustified disciplinary write ups and causing his working conditions to become "extremely strict" after he filed his EEOC charge. Weavexx has filed for summary judgment.

¹ In ruling on a motion for summary judgment under Rule 56, the court must take as true the well-pleaded allegations in the complaint and construe them in the light most favorable to the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505, 2513, 91 L. Ed.2d 202, 216 (1986). The court's factual summary is so drafted.

Summary Judgment Standard

On a motion for summary judgment, the movant has the initial burden of showing the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106 S.Ct. 2548, 2554, 91 L. Ed. 2d 265, 275 (1986) ("the burden on the moving party may be discharged by 'showing'...that there is an absence of evidence to support the non-moving party's case"). Under Rule 56(e) of the *Federal Rules of Civil Procedure*, the burden then shifts to the non-movant to "go beyond the pleadings and by...affidavits, or by the 'depositions, answers to interrogatories, and admissions on file,' designate 'specific facts showing that there is a genuine issue for trial.'" Celotex Corp., 477 U.S. at 324, 106 S.Ct. at 2553, 91 L. Ed. 2d at 274. That burden is not discharged by "mere allegations or denials." Fed. R. Civ. P. 56(e). All legitimate factual inferences must be made in favor of the non-movant. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505, 2513, 91 L. Ed.2d 202, 216 (1986). Rule 56(c) mandates the entry of summary judgment "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp., 477 U.S. at 322, 106 S.Ct. at 2552, 91 L. Ed. 2d at 273. Before finding that no genuine issue for trial exists, the court must first be satisfied that no reasonable trier of fact could find for the non-movant. Matsushita Elec. Indus. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S.Ct. 1348, 1356, 89 L. Ed. 2d 538, 552 (1986).

Discussion

A. Retaliation Under Title VII

Ward contends that he was given stricter working conditions and received unjustified disciplinary write ups in response to filing an EEOC charge.² To establish a prima facie case of unlawful retaliation, Ward must prove:

- 1) that he engaged in activity protected by Title VII;
- 2) that an adverse employment action occurred; and
- 3) that a causal link exists between the protected activity and the adverse employment action.

Sherrod v. American Airlines, Inc., 132 F.3d 1112, 1122 n.8 (5th Cir. 1998); Grimes v. Texas Dept. of Mental Health and Mental Retardation, 102 F.3d 137, 140 (5th Cir. 1996); Long v. Eastfield College, 88 F.3d 300, 304 (5th Cir. 1996); Dollis v. Rubin, 77 F.3d 777, 781 (5th Cir. 1995). Ward has failed to address this issue in his response to Weavexx's motion for summary judgment.

With respect to the first requirement, Ward filed an EEOC claim and thereby “made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing” under Title VII. 42 U.S.C. § 2000e-3(a); Grimes, 102 F.3d at 140. Accordingly, Ward meets his burden on the first requirement.

With respect to the second requirement; as to whether an “adverse employment decision” occurred, the Fifth Circuit has provided:

² The court notes that Ward alleges in his complaint that his working conditions were affected. That they became “extremely strict” following his EEOC charge. However, he does not refer to this in his deposition.

Title VII was designed to address ultimate employment decisions, not to address every decision made by employers that arguably might have some tangential effect upon those ultimate decisions. Ultimate employment decision[s] include acts such as hiring, granting leave, discharging, promoting, and compensating.

Mattern v. Eastman Kodak Co., 104 F.3d 702, 707 (5th Cir. 1997)(internal citations omitted).

In Mattern, the court found that a visit to an employee's home, a verbal threat of being fired, a reprimand for not being at her assigned work station, a missed pay increase, and being placed on final warning did not constitute an adverse employment decision because of their lack of consequence. Mattern, 104 F.3d at 708. Similarly, the Dollis court held that allegations of refused consideration for promotion, refused attendance at a training conference, criticism of work, and employee receipt of false information from the employer about certain aspects of employment did not rise to the level of ultimate employment decisions; rather, these were tangential to decisions that might be a future employment decision. Dollis, 77 F.3d at 782.

In the case at bar the forms of retaliation in the complaint are not sufficient to sustain a claim under Title VII. The change in working conditions, and the unfair disciplinary write ups were not ultimate employment decisions and did not rise above having a mere tangential effect on a possible future ultimate employment decision. See Mattern, 104 F.3d at 707. See also Hill v. Mississippi St. Empl. Serv., 918 F.2d 1233 (5th Cir. 1990). It is correct that Ward had been issued three written reprimands for work-related issues. However, there are no active disciplinary actions in his file. Pursuant to Weavexx's grievance process, these warnings were removed from his file. While Ward acknowledges that the warnings have been removed, he generally contends that he has received other warnings, although he cannot identify the subject matter or date of such warnings.

In sum, since the filing of his EEOC charge, Ward has not been impacted as to an “ultimate employment decision” such as discharge, reduction of pay, demotion or denial of a promotion. To the contrary, Ward remains in his weaver position with no changes in his job assignments and has received pay raises since the filing of his EEOC charge.

Finally, Ward has identified no facts which would establish that a causal link exists between the protected activity and any adverse employment action. There is simply no evidence on the record that Weavexx management issued a written discipline to Ward because of his filing of an EEOC charge. Accordingly, Weavexx is entitled to judgment as a matter of law on Ward’s retaliation claim.

B. All remaining claims.

As to the remaining claims, the court finds that Weavexx’s motion for summary judgment is not well taken and should be denied.

The Defendant has failed to show that it is entitled to judgment as a matter of law. In any event, the court has the discretion, which it exercises here, to allow the Plaintiff’s remaining claims to proceed to trial. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505, 2513, 91 L.Ed.2d 202 (1986) (“Neither do we suggest ... that the trial court may not deny summary judgment in a case where there is reason to believe that the better course would be to proceed to a full trial.”).

Conclusion

Based on the foregoing authorities, the court finds that the Defendant, Weavexx Corporation, is entitled to summary judgment on the Plaintiff, Cedric Ward’s claim for retaliation. On all other claims, the Defendant has failed to show that it is entitled to summary judgment.

Accordingly, the Defendant's motion for summary judgment is granted in part and denied in part.

A separate order in accordance with this opinion shall issue this day.

This the ____ day of April 2001.

_____/s/_____
Chief Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CEDRIC WARD

PLAINTIFF

VS.

CIVIL ACTION NO. 1:00CV132-D-A

WEAVEXX CORPORATION

DEFENDANT

ORDER GRANTING IN PART AND DENYING IN PART
THE DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Pursuant to an opinion issued this day, it is hereby ORDERED that

1. the Defendants' Motion for Summary Judgment (docket entry # 21) is GRANTED
IN PART AND DENIED IN PART;
2. the Plaintiff's claims for retaliation under Title VII are DISMISSED WITH
PREJUDICE; and
3. the remainder of Plaintiff's claims will be allowed to proceed to trial.

SO ORDERED, this the _____ day of April, 2001.

_____/s/_____
Chief Judge